IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 5517 of 2007(F)

POP.8/2003 of I ADDL.SUB COURT, THRISSUR

PETITIONERS:

1. **V.K. PRABAKARAN,**
   SUB INSPECTOR OF POLICE, PAVARATTY POLICE STATION,
   PAVARATTY.

2. **JOSEPH,**
   POLICE CONSTABLE, PAVARATTY POLICE STATION,
   PAVARATTY.

3. **VARGHESE,**
   POLICE CONSTABLE, PAVARATTY POLICE STATION,
   PAVARATTY.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENTS:

1. **SASI, AGED 30 YEARS,**
   S/O. KARICHAYIL VEETTIL SANKARANKUTTY,
   MUTHUKKARA DESOM, MULLASSERY VILLAGE,
   CHAVAKKAD TALUK.

2. **SECRETARY,**
   HOME MINISTRY, SECRETARIATE, THIRUVANANTHAPURAM.

BY ADV. SRI.P.A.CHANDRAN --- R1
GOVERNMENT PLEADER SRT. R.BINDHU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 5517/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PAUPER ORIGINAL PETITION.

EXT.P2. COPY OF THE ORDER PASSED IN POP NO. 8/2003 DTD. 28/10/2006.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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M.N. KRISHNAN, J.

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W.P.C. NO. 5517 OF 2007

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Dated this the 8th day of October, 2007.

J U D G M E N T

This writ petition is filed challenging the order of the Subordinate Judge, Thrissur in P.O.P. 8/03. One Sasi, has filed a suit as P.O.P. for compensation from the defendants for the torture he has suffered while he was in the custody of the defendants 1 to 3, the police personnel. He has submitted that as he has no means to pay Court fee, he may be permitted to sue as an indigent person. The defendant would contend that the suit itself is not maintainable and it is hit by the various provisions of Section 64 of Kerala Police Act and Section 54-A of the Abkari Act.

2. Heard the counsel for both sides. It is submitted that petitioners are claiming compensation from the defendants for their personal acts as well and therefore whether there will be a bar under Section 64 of the Act. These are all matters which has to be considered in detail for

which most probably evidence also may be necessary. What is contemplated under Section 33(5) of CPC is a situation where an action is totally against law it can be thrown out at the threshold itself. I do not think this is a case which may be thrown out at the threshold itself. Therefore, I find no reason to interfere with the order rendered by the Court below permitting the petitioner to sue as an indigent person. I make it clear that I am not making any observation on the legal question which is raised by the learned counsel for the petitioner at this stage for the reason that it shall not prejudicially affect any of the parties. The writ petitioners are also at liberty to make and raise contentions before the Court below in the suit, if they want to raise.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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